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Letter dated 23 June 2008 from the Secretary-General to the President of the Security Council

I have the honour to attach the report and recommendations of Lt. General Riek Machar Teny-Dhurgon, Chief Mediator of the peace process between the Government of the Republic of Uganda and the Lord's Resistance Army, transmitted to me by my Special Envoy for the Lord's Resistance Army-affected areas, Joaquim Alberto Chissano.

I should be grateful if you would bring the report and recommendations included in the annex to the present letter to the attention of the members of the Security Council, as requested by the Chief Mediator.

(*Signed*) **Ban** Ki-moon

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Annex

Letter dated 18 June 2008 from the Special Envoy of the Secretary-General for the Lord's Resistance Army-affected areas to the Secretary-General

The Chief Mediator and Vice-President of the Government of Southern Sudan, Lt. General Riek Machar Teny-Dhurgon, has requested me to present to you his report regarding the status of the peace talks between the Government of the Republic of Uganda and the Lord's Resistance Army (LRA).

The report reviews the current situation of the peace process and provides recommendations on the way forward. The Chief Mediator is of the view that: (i) efforts should continue to bring the LRA back to the peace process; (ii) a door should be left open for diplomatic action that would restore dialogue with LRA in Juba even if other actions are contemplated; (iii) implementation of certain aspects of the Juba Agreements, especially humanitarian and socio-economic interventions in the areas affected by LRA activities should commence; (iv) work should continue on establishing new justice institutions; (v) the mediation process and certain mechanisms that have already been established should be sustained; (vi) and the process should continue to be adequately resourced to ensure that those affected by the conflict are fully assisted to return to their communities. This would also enable the Mediator, the Facilitator and other stakeholders to ensure their preparedness to deal with the demobilization of LRA when the group returns to the process.

While the Chief Mediator believes that the aforementioned elements will secure the gains of the Juba Agreements for the benefit of Ugandans, he awaits the response of the Government of the Republic of Uganda and LRA to his proposals. He has also asked me to transmit his report to the President of the Security Council and to members of the Council.

(*Signed*) Joaquim A. **Chissano**

Enclosure

Report and recommendations of the Chief Mediator of the peace process between the Government of the Republic of Uganda and the Lord's Resistance Army

Introduction

1. Peace talks between the Government of Uganda and the Lords Resistance Army (LRA) formally commenced in Juba on 16th July 2006, after the Parties accepted the mediation of the Government of Southern Sudan (GoSS) to find a peaceful settlement to the long conflict between them. The protracted negotiations have now been concluded. However, the LRA has not yet signed the text of the final agreement. More recently, there have been reports of increased LRA movements and military activities in the region. At the same time states in the region have been discussing alternative ways of dealing with the LRA. These developments pose questions about the status of the peace process that need to be addressed. As the mediation, we believe that the process of negotiations which commenced in Juba produced sound agreements, which, while challenging to implement, are indispensable for attaining a sustainable resolution of this conflict, and should command our commitment.

Background and Rationale for GoSS Mediation

2. The Government of Southern Sudan is more than just a mediator in this process; we are a key stakeholder. For many years, LRA's activities, and the Government of Uganda's counter-insurgency have been carried out within Southern Sudan's borders, with significant disruptive effects on our civil population and economic and trade activities – LRA activity also threatened to disrupt traffic between Juba and important arteries of transport through Northern Uganda. Resolving the LRA conflict remains a pre-condition for securing the conditions for peaceful return and resettlement of our refugee and the internally displaced populations. Today, Southern Sudanese need to consolidate the gains of the Comprehensive Peace Agreement and therefore have very high stakes in the outcome of the negotiations. However, the benefits of this peace process will extend, and, indeed, are already being felt, well beyond our borders. For these reasons, we believe that the process we commenced in Juba must not be abandoned, as it represents the most rational and comprehensive response to the LRA conflict, thus far.

The Negotiations – Outcomes and Challenges

3. In Juba, the Parties adopted a comprehensive approach, which sought to resolve, once-and-for-all, all contentious matters arising from the conflict; including its underlying causes and impacts. Five Agenda Items were therefore adopted: **(i) Cessation of Hostilities (ii) Comprehensive Solutions (ii) Reconciliation and Accountability (iv) Permanent Ceasefire (v) Disarmament Demobilisation and Reintegration (DDR).** These formed the basis of the negotiations.

4. As the mediation, we ensured that the talks in Juba benefited from wide input from community representatives, who participated as observers throughout the negotiations. The process also gained immensely from consultations the Parties carried out in Uganda during the second part of 2007. Although the talks were held outside Uganda, we are nevertheless very confident that the outcomes reflect the aspirations of the Parties and, crucially, the conflict-affected communities of Uganda.

5. I can therefore report, with full satisfaction, that by 25th March 2008, the Parties had achieved consensus on all the Agenda Items. They signed or initialled eight substantive agreements which, altogether, constitute the Final Peace Agreement. A short text which was to be ceremonially signed by General Joseph Kony and His Excellency President Yoweri Museveni was initialled.

Challenges – Representation for the LRA

6. Like any other process, the Juba talks have endured challenging phases. From the outset, with ICC arrest warrants hanging over their heads, the leaders of the LRA refused to travel to Juba. They then had to rely on representatives to negotiate on their behalf, and retained communications through visits and via telephone. This is not unusual: many peace negotiations are undertaken by representatives rather than by the leaders of the respective groups themselves. What is required is credible representation. I am satisfied that the LRA leadership remained in constant communication with its delegation on all the issues that were on the table in Juba. On several occasions we met or spoke with General Joseph Kony, his deputy, Vincent Otti, and senior LRA commanders. Lawyers from my mediation team, as well as UN representatives, also met with the LRA leaders including in their camps. Throughout, the Government of Uganda too continued its own direct communications with the LRA leaders. The fact that the LRA leadership made several changes to the composition and leadership of the delegation reflects the extent of its involvement. We need to ensure that the LRA leadership

continues to have confidence in those who represent it during this process.

Overcoming Mistrust

7. Although the Government of Southern Sudan has always acted in good faith, it was still necessary to continually reassure the LRA of the impartiality of the mediation. During the talks efforts were devoted to improving the climate of trust between the Parties and to allay the LRA's fears. Through the good offices of the United Nations Secretary General's Special Envoy for LRA-affected areas, Mr Joaquim Chissano, regional support has been harnessed in support of the process. The presidents of South Africa, the Democratic Republic of Congo (DRC), Tanzania, Kenya and Mozambique sent representatives to the talks under the aegis of the African Union. We salute Mr Chissano, and the African Ambassadors, as we came to refer to the representatives, for their invaluable inputs during the negotiations process. Their presence strengthened the mediation and has represented African and regional solidarity in solving this difficult problem.

Building Solidarity and Support

8. Alongside the African Ambassadors, other representatives of the international community also stood with us in Juba throughout the process of the talks, often brokering compromises on difficult questions. Through a Juba Initiative Fund, supported by several countries, and other arrangements for support, they helped to sustain the dialogue process, and the infrastructure that made talks possible. Without that support, the process would have faltered, badly. We hope to count on that solidarity in the next difficult phase of this process, which requires continuing support.

The Dividends of the Dialogue Process

9. I have already referred to the Government of Southern Sudan's motivations for offering our mediation to the Parties. Since the commencement of the talks, palpable gains have been registered for affected communities in Uganda and Sudan, especially since 26th August 2006 when agreement was reached on the **cessation of hostilities**. That agreement contains two key measures which are of immense value: (i) **assembly areas for the LRA**; and, (ii) the establishment of a **Cessation of Hostilities Monitoring Team (CHMT)** to monitor the cessation, impartially. I emphasise these two instruments now, as I have particular recommendations to make about them later.

10. Ri-Kwang-Ba and Owiny-Ki-Bul, in Western and Eastern Equatoria respectively were initially chosen as assembly areas. On 14th April 2007, the Parties agreed to retain only Ri-Kwang-Ba for assembling. At the same time, the decision was taken to expand the CHMT, to include members from more African countries. The team is currently composed of military officers from: Kenya, Tanzania, the DRC, Mozambique, and South Africa. They are a keystone of the process.

11. Since the departure of the LRA from Northern Uganda and the East of the River Nile in Sudan under the Juba process, the situation in Northern Uganda and Eastern Equatoria has been transformed by the improvements in security. I understand that the humanitarian situation has markedly improved in Northern Uganda, where some districts of Northern Uganda have registered complete return of their displaced populations to their homes. Where people might still remain in camps, it is principally for reasons unconnected with insecurity. These are some of the unquestionable humanitarian dividends of the Juba talks. Other social and economic gains continue, with immeasurable benefits, which must not be forgotten as we plan our responses to the current situation.

Elements of the Agreements

12. As I have already stated, the strategy we adopted was to address to the greatest extent possible, all the issues relevant to resolving the conflict. Thus the agreements on **Comprehensive Solutions** deal with the root causes, political questions and amelioration of the socio-economic impacts of the conflict. Another key agreement, which has received wide attention nationally and internationally, is the **Agreement on Accountability and Reconciliation**. Together with its annexure, it has made detailed provisions on how to address the crimes and abuses perpetrated during the conflict. This agreement also sets out the framework for promoting reconciliation and healing in all the affected communities, and within the body politic in Uganda. A combination of formal and non-formal justice and adjudication processes would give a comprehensive response to the many years of violations in Northern Uganda and beyond. We believe that the agreements provide a full and sufficient answer to the question of criminal accountability, consistently with international standards.

13. Combatants are always concerned about how they will be received back home upon abandoning rebellion. The agreements of ceasefire and DDR have therefore addressed, comprehensively, the process of return and reintegration of the LRA. The Parties adopted best practices in these fields, and with the support of the international community, we envisage a smooth demobilisation and reintegration of LRA. Under the agreement on Implementation and Monitoring Mechanisms (IMM), a Joint Liaison Group (JLG) and an Oversight Forum are to be established signature of the Final peace Agreement. These organs, which would have wide participation, include LRA, for the JLG, are intended to provide vital monitoring of the implementation process. The IMM also allows time for the Parties to prepare for full disarmament and for the justice processes in Uganda, ahead of the LRA's repatriation back to Uganda.

Failure of the LRA to Sign the FPA

14. Despite the arrangements made for his signature on 10th April 2008, General Joseph Kony did not appear for the signing in Ri-Kwang-Ba, citing some concerns about the agreement. Neither did he meet the Uganda community leaders who returned to Nabanga a month later, for a May 10th meeting, prepared to engage Joseph Kony on those issues. The LRA leader had sought further clarifications about the agreements; in particular, he wanted to understand the relationship between the proposed Special Division of the High Court (for trying crimes committed during the conflict) and the traditional justice mechanisms, especially of Acholi. Joseph Kony's consecutive failures to appear for planned meetings was a serious disappointment to the many people, across the world, all who had worked and hoped for final signatures of the Agreements.

15. Many questions have been raised, especially within the affected communities, about the implications of the non-signature of the FPA. I believe there is a background to this: there appear to have been tensions within the LRA in the latter part of the negotiations. In October 2007, news started to emerge that Vincent Otti, the Vice Chairman of the LRA, had been killed. After that, the LRA was said to be on the move again. Some of these tensions manifested in the changes in the leadership and the composition of the LRA delegation.

16. Although it has not been possible to establish the extent or full significance of any frictions within the LRA, they represent obstacles to be overcome, and underscore the need to adopt realistic timeframes for securing the full implementation of the agreements. As the mediation, we

consider it to be our duty to work with the Parties, through their representatives, as we find them: it is not our role to strengthen or undermine the internal cohesion of any of the Parties. Our priority now is to work to overcome the current reluctance of the LRA to full commit to full implementation of the Agreement.

Current Status of the Process

17. The failure of General Kony to sign the text of the cover Agreement obviously represents a setback for the full implementation of the agreements. As I have stated, the formal negotiations have been completed. Although efforts to engage the LRA are ongoing, they fall outside the negotiation process. That process is likely to involve further explanations and clarifications of the texts and rationale of the agreements. This of itself is not unusual. We strongly encourage and will work with others to pursue meaningful contacts with the LRA. We are acutely mindful that without signature of the FPA significant elements of the agreements cannot be implemented. More fundamentally, the LRA's full and active participation and compliance in the process is essential for a credible resolution of this conflict.

Military activities of the LRA in the Region

18. I have already referred to the recent military activity of the LRA in the region. For the duration of the talks the bulk of the LRA has been in the DRC, indeed, it is from there that they initiated the talks. Various reports have placed the group within the Central African Republic (CAR) from where allegations of crimes have emerged. The Mediation has not carried out independent verification of these accounts. We understand that others are actively looking into these allegations more closely. The information indicates, at the very least, that the LRA has been present and active in the CAR, although questions still remain about the extent and nature of that presence.

LRA Activities within Sudan

19. Here in Southern Sudan, however, we can state with greater certainty, that there have been incidents involving the LRA over the past several months. Several Sudanese nationals have been abducted, especially from Western Equatoria. These actions have created great fear and tensions extending beyond Western Equatoria. The situation has recently been exacerbated when on 5th June 2008, in a surprise dawn raid, forces believed to be the LRA attacked a contingent of our SPLA (Sudan Peoples' Liberation Army)

forces which had been deployed to support this process in Nabanga, just outside the assembly point of Ri-Kwang-Ba.

20. On 10th June 2008, I sent the CHMT on a verification mission to Nabanga. The following day, the Team reported to me as follows: On 5th June 2008, the LRA attacked the SPLA camp in Nabanga killing 14 soldiers. Six women and another six children also died in the attack. Four LRA combatants were reportedly killed. Their bodies were left behind. Huts and property were destroyed. The community in Nabanga has been left in disarray.

21. We condemn all these actions in the strongest terms, as violations of the letter and the spirit of the Agreements. Attacks such as these have characterised this conflict over a long period. We do not believe that there is an easy solution, or magic wand, for resolving this conflict. It is this kind of action within Sudan, which made it necessary for the Government of Southern Sudan to embark on this process of mediation. Whilst we must feel disappointment about such apparent reversals, and non-compliance with the terms of the agreements, we cannot yield to despair or react only in anger. More than ever, a more constructive response is required at this time.

Strategy for the Interim Period

22. Having examined and assessed the events of the unfolding events over the last months the Government of Southern Sudan still remains committed to seeing the Parties sign the Final Peace Agreement and fulfilling their obligations. This is still our top priority. While we work to secure progress, we believe that this period, which is of indeterminate length, should be used for promoting and consolidating the positive elements of the agreements.

23. I therefore propose the following for this interim period:

a) Continuing engagement with the LRA

It is essential to continue to encourage the LRA to re-engage with the peace process and complete formal signing of the Final Peace Agreement. If we succeed in this, then we would be able to proceed with full implementation of the agreements.

b) Commencing implementation of the Juba Agreements
In view of the many social, economic and politically positive and urgent elements of the agreements, it is vital to commence implementation of relevant provisions.

c) Maintaining or adapting some mechanisms of the Agreements
Key implementation instruments of the process should be retained. Where necessary, adaptations should be considered to ensure the credibility of the interim implementation.

d) Harnessing resources for interim implementation
Whilst our Government will continue to invest in this process, even with scaled-down infrastructure, interim implementation would still require resources. Our own efforts, working with other community stakeholders, to continue pursuing signatures will invariably entail expenditures.

A. Continuing Engagement with the LRA

24. As already affirmed, the Government of Southern Sudan prefers a peaceful resolution of this conflict. It therefore invites the LRA leadership to return to complete the dialogue process, it was instrumental in beginning. In my first meetings with the LRA at the beginning of 2006, they confirmed their willingness to enter the talks in good faith. We call upon those who might exert influence on the LRA to engage them to recommit to the process. In this connection, the Government of Southern Sudan appreciates the role of the Special Envoy, Mr Joaquim Chissano, and will continue to cooperate with his office in his ongoing endeavours in the LRA-affected areas.

B. Commencing Implementation of the Agreements

25. The mediation believes that the agreements reached in Juba are all legally valid: they are not provisional instruments. They require no further negotiations. All were signed or initialled by the parties. Although some of the agreements will await signature and LRA compliance to be implemented, there is no legal bar to implementing the other aspects of the agreements, with necessary modifications. There are four compelling reasons for commencing selective implementation now:

- Firstly, as a confidence-building measure reassuring the LRA that the agreements they negotiated are being respected, and that the Ugandan communities are ready to receive and reintegrate them in good faith.

- Secondly, for the immense benefits that would accrue to the conflict affected communities. Many of the solutions adopted in the agreements are victim and community-focused, thus transcending the ownership of the two Parties and should be availed in accordance with the needs and not formalities. The timing of humanitarian interventions envisaged in the agreements is dictated by events on the ground. As displaced persons return home spontaneously, the Uganda Government's obligations to assist them in that process begin.

- Thirdly, commencing implementation would address underlying grievances which might have sparked, fuelled, or resulted from the conflict. This would contribute to removing justification for any support for conflict.

- Lastly, and linked to the first point, this would answer sceptics and detractors of the peace process. No peace process is immune from doubts and even sabotage. The evidence of good faith implementation provides the most eloquent response in such circumstances.

Support for the Principle of Interim Implementation

26. We are immensely encouraged to have found a very strong sense amongst key stakeholders that the gains of the 20-month negotiations should not be lost. Indeed, the Uganda Government, which shoulders the main burden of the burden of implementation, has already commenced efforts to implement aspects of the agreement. I am given to understand that the Prime Minister has written to various Government departments, to achieve this. Most notably, a War Crimes Division of the Uganda High Court has been established, directly in accordance with the Agreements. Even with limited implementation contemplated, there will still be several strands from the various agreements, which will require the process to be carefully planned, coordinated and prioritised.

Designing Implementation

27. Clarity concerning the strategy and revised timeframes for implementation is essential, including for monitoring and oversight functions to be carried out. This would not only make implementation more likely, it would give assurance to all stakeholders about the process. In this connection, the Mediation proposes that the **Government of Uganda should publicise its strategy** and prioritisation for interim implementation of the agreements. This, in turn, would be made available to key stakeholders, including the Mediator. Such a document would serve as a framework for carrying out activities in the interim period and would also provide the basis for oversight and monitoring.

C. Maintaining Key mechanisms of the Agreement

28. Our third concern is that the instruments which have already been adopted to facilitate the transition from violence should not be dismantled. Maintaining functional systems is also of important symbolic value, as they provide incontrovertible evidence of good faith and the viability of the peaceful option during this period. In this connection, we propose the following:

- **Retaining Ri-Kwang-Ba as a gazetted assembly area.** This means keeping the facilities there functional. Beyond that, it requires maintaining preparedness to resume activities in the Assembly Area as soon as the LRA commences assembling. This is the undertaking of the Government of Southern Sudan. We therefore call upon the LRA to make use of Ri-Kwang-Ba, and, in the light of recent events, to desist from any further actions which destroy the sanctity of that area as an agreed place of sanctuary.

- **Maintaining a functional Cessation of Hostilities Monitoring Team** is crucial for the purpose of making security assessments, military monitoring and confidence-building in the interim period. The value of their contribution has already been demonstrated in their credible verification of the recent attack on Nabanga, which occurred during this uncertain period.

- **Maintaining the Mediator's advisory and oversight functions** and the effectiveness of my Office is essential. The issues I have raised here, concerning compliance with the agreements and interim implementation all require follow-up mechanisms. I will therefore continue to seek information and offer advice to the Parties, including through my team, on relevant issues of implementation.

- **Establishing an interim monitoring and oversight function** for the implementation activities especially those carried out in Uganda. The formal role of the negotiators has been accomplished. Prior to full implementation, when the organs of the JLG and the Oversight Forum will be established, a monitoring mechanism is nevertheless required.

  I have, in this connection, received a helpful paper from the LRA delegation on this issue, which I understand that the Government of Uganda is also considering at the moment. I will shortly be seeking its views on the matter. Whatever the consensus that will emerge, it is crucial that implementation should commence; that the plans adopted should be publicised and monitored; that it should be participatory and consistent with the Agreements; and, crucially, that the views of the other Party should be sought and taken into account. My office will remain engaged with this issue, in line with my recommendations above, including under Designing Implementation.

D. Harnessing resources for implementation

29. A decision has been taken by our donors to stop the funding for the Juba Initiative Fund, which is now to be wound up. We, however, consider that it is essential, given the ongoing needs of the process, for a satisfactory arrangement to be reached for continuing support in this interim period. We recognise that many of the programmes will be carried out in Uganda, and this reality should be recognised. Creating appropriate funding modalities now would ensure a stronger and more effective response in implementation. We would therefore **encourage the donor community to remain engaged** with this process, and invite them to discuss with us and the Government of Uganda the most appropriate modalities for taking this matter forward. Support will be essential for facilitating the crucial work of the CHMT which must continue in this period, before it is eventually transformed into the Ceasefire Monitoring Team, under the Permanent Ceasefire Agreement.

Participatory Implementation

30. We must remind ourselves that the key stakeholders and beneficiaries of this process are the people of the conflict-affected areas, especially in Uganda. Any interim implementation will need to ensure that the affected populations and victims continue to be consulted, as they have been, throughout the process of the talks. Indeed, many of the provisions of the agreements require active participation of communities at all stages of implementation. Realistic modalities for this will need to be found.

Conclusion

31. Many hopes and efforts have been invested in the talks between the Government of Uganda and the Lord's Resistance Army. The Government of Southern Sudan remains committed to returning the process onto the tracks agreed in Juba. We call upon the LRA to re-engage with the process by establishing regular and credible communication with the mediation, key stakeholders and the Government of Uganda. Seeking full compliance and implementation of the Agreements remains our primary priority and preference. In this search, we will rely on the continuing support of community, regional and international stakeholders.

32. We also believe that commencing effective implementation of certain aspects of the agreements immediately would consolidate the peace in Northern Uganda and parts of Southern Sudan, and improve the prospects for stabilising the other affected areas. Our efforts in this direction would demonstrate a viable peaceful alternative to violence as a means of ending this conflict. Although the path ahead is challenging, we believe that ending this conflict commands and deserves the full commitment of everyone. Our longsuffering populations expect nothing less from us.

33. I await the response of the Parties to these recommendations.

16/6/2008

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Lt. General Riek Machar Teny-Dhurgon (Ph.D)
Vice President of the Government of Southern Sudan
Chief Mediator of the Uganda Peace Talks
Juba, 16th June 2008